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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of
Dale A. Christensen et al.

Serial No.: 10/786,664

Filed: February 25, 2004

Title: IRRIGATION DRIVE UNIT

Group No.: 3752

BEFORE THE BOARD
OF PATENT APPEALS
AND INTERFERENCES

Appeal No. _____

APPELLANTS' REPLY TO EXAMINER'S ANSWER

Commissioner for Patents
Alexandria, VA 22313

Dear Sir:

In the Examiner's Answer, the Examiner withdrew the rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite for reciting "a plurality of spaced-apart drive units" and "at least one of said drive units including a generally transversely extending base beam having first and second ends." However, the Examiner maintained his final rejection of claims 1-5 under 35 U.S.C. § 112, second paragraph, as being indefinite because the recitation of "a first in-line drive assembly" and "a second in-line drive assembly" in claim 1, lines 6 and 8, respectively, are double inclusions of the "drive units" recited in line 3. The Examiner believes that the first and second in-line drive assemblies are sub-assemblies of the drive units. The

1 Examiner contends that the claims should have been amended to read --the at least
one drive unit further including a first in-line drive assembly pivotally connected to said
base beam adjacent said first end thereof and a second in-line drive assembly
pivotally connected to said base beam adjacent said second end thereof--.

5 The specification clearly states that the irrigation system includes a plurality of
spaced-apart drive units or towers which support an elongated irrigation pipeline which
moves over the area to be irrigated. Appellants do not believe that the recitation of the
first in-line drive assembly and the second in-line drive assembly is a double inclusion.
10 If claim 1 had stated that the elongated pipeline was supported upon a plurality of
spaced-apart towers, would the recitation of the first and second in-line drive
assemblies be a double inclusion, as suggested by the Examiner? It is respectively
submitted that claims 1-5 are not objectionable under 35 U.S.C. § 112, second
paragraph, as being indefinite, but Appellants are certainly willing to amend claim 1 as
15 suggested by the Examiner if the same would overcome that rejection.

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. § 102(b) as being
anticipated by Chapman (6,131,833). Accordingly, it is believed that the Examiner has
agreed to allow claim 3, if the Section 112 rejection is overcome, which specifically
20 states that each of the first and second drive assemblies includes a drive motor and
two gearboxes operatively connected to the driven wheels.

Appellants contend that the Examiner's rejection of claims 1, 2, 4 and 5 under
35 U.S.C. § 102(b) as being anticipated by Chapman (6,131,833) is in error. It is the
Examiner's contention that Chapman anticipates claims 1, 2, 4 and 5 on the grounds
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1 that the idler wheels 48 in Chapman are driven wheels. Chapman clearly describes
that the wheels 48 are idler wheels, which does not connote that the idler wheels 48
are "driven" as is commonly understood in the art and is easily understood by a person
having ordinary skill in the art. A person skilled in the art would realize that idler
5 wheels are not "driven," as commonly understood in the art. The Merriam Webster
Collegiate Dictionary defines "idler wheel" as being a wheel, gear or roller used to
transfer motion or to guide or support something. One merely has to look to the prior
art to determine what a person of ordinary skill in the art would understand with
10 respect to the use of the term "idler wheel". In U.S. Patent No. 5,190,363, a track
device is illustrated and the specification thereof clearly describes that the wheel 22 is
a driven wheel and that the wheel 24 is an idler wheel. In U.S. Patent No. 6,951,373,
the specification describes that wheel 4 is a driven wheel and that the wheel 3 is an
idler wheel. In U.S. Patent No. 6,926,105, the wheel 14 is described as a drive
15 sprocket while the wheels 28, 30 and 32 are described as idler wheels. In U.S. Patent
No. 6,904,986, wheels 22, 23 and 24 are described as idler wheels while the wheel 28
is described as a drive wheel. In each of the prior art patents, those wheels which are
described as idler wheels are not driven wheels, but are merely idler wheels which are
20 rotated by the movement of the track in engagement therewith. The same is true in
Chapman; the wheels 48 are clearly described as idler wheels and are not driven.
Accordingly, Chapman cannot anticipate claims 1, 2, 4 and 5 since Chapman does not
disclose a first in-line drive assembly pivotally connected to a base beam adjacent one
end thereof and a second in-line drive assembly pivotally connected to the base beam
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1 adjacent the second end thereof. The wheels 48 of Chapman are idler wheels and are
not drive wheels. Therefore, the Examiner's rejection under 35 U.S.C. § 102(b) should
be reversed.

5 Respectfully submitted,



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CERTIFICATE OF MAILING

15 I hereby certify that the original of APPELLANTS' REPLY TO EXAMINER'S
ANSWER for DALE A. CHRISTENSEN, ET AL., Serial No. 10/786,664, was mailed by
first class mail, postage prepaid, to the Mail Stop Appeal Briefs-Patent, Commissioner
for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6th day of
December, 2005.



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